IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 648 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHANT PRAMUKHSWAMI RAMSHARAN-DASJI GURUSHRI RAMSEVAKDASJI - Appellant(s)

Versus

RAMPURI DUNGARPURI - Defendant(s)

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Appearance :

MR HB SHAH for Appellant(s) : 1,
MR KV SHELAT for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 14/08/2006

ORAL JUDGMENT

1. Present appeal has been filed by the appellant herein – original plaintiff (hereinafter referred to as “the plaintiff”) challenging the judgment and decree passed by the learned City

Civil Court, Ahmedabad, dated 13th March, 1986 passed in Civil Suit No.287 of 1984 in dismissing the same.

2. The plaintiff filed Civil Suit No.287 of 1984 in the City Civil Court, Ahmedabad, against the defendant to obtain perpetual injunction restraining the defendant from entering in or putting any cabin or structure in the suit property of Dukhbhanjan Hanuman Temple situated opposite New Civil Hospital, Ahmedabad. It was averred in the plaint that he was the administrator of the temple and was doing pooja in the temple and was residing in one room of the temple. It was averred that there was a margin open land around the temple where devotees sit and make prayers. It was further averred that the defendant being head-strong man, he gave threat that he would put cabin in the margin land of the temple and he also demanded land for putting cabin when it was resisted by him, the defendant assaulted the plaintiff and therefore, the aforesaid suit came

to be filed.

3. The suit was resisted by the defendant by filing written statement at Exh.16. It was contended that he was a tenant of the premises of the plaintiff since last 18 years and was doing business and have a Pan cabin in the land of the plaintiff. It was further submitted that he was paying rent Rs.25/- per month and the plaintiff had given him receipts of rent also. It was submitted that he paid rent upto 30th July, 1983 but thereafter, plaintiff did not accept the rent from him and therefore, the rent was sent by money order, which was not accepted and therefore, it was requested to dismissed the suit.

4. The learned trial Court raised the issues at Exh.39. Considering the evidence on record, the learned trial Court dismissed the suit by holding that as the defendant was the tenant, the Civil Court has no jurisdiction and accordingly dismissed the aforesaid suit. Being

aggrieved and dissatisfied with the same, the plaintiff has preferred the present appeal.

5. Shri P.C.Master, the learned advocate appearing on behalf of the plaintiff, has tried to assail the judgment and decree and the findings of the learned trial Court that the defendant was the tenant and that the Civil Court has no jurisdiction. However, after considering the evidence on record, oral as well as documentary, he is not successful in assailing the judgment and decree passed by the learned trial Court. Considering the documentary evidence as well as the oral, the learned trial Court has rightly held that the defendant was the tenant and there was a relationship of landlord and tenant between the parties and therefore, the City Civil Court had no jurisdiction. Considering the documentary as well as oral evidence, it cannot be said that the learned trial Court has committed any error in holding that the City Civil Court had no jurisdiction as there was a relationship of landlord and tenant between the parties. This Court is in complete agreement

with the reasoning and findings of the learned trial Court in dismissing the suit.

6. For the reasons stated above, the appeal fails and is accordingly dismissed. However, there shall be no order as to costs. Ad-interim relief, if any, stands vacated forthwith.

[M.R.SHAH, J.]

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